Previous references.
Nos 2, 3 & 5 filed Same month

1905.

(III Accounts)

File No. 114 – 05

Serial Nos. 144

Later references.
Nos 6 – 10.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 144.

Part B. for December 1905

SUBJECT.

Recovery of gold concerned in Crl case No 286 of 04-05 on the file of the Asst Comr Magte of the K.G. Fields.

Table of Contents

Serial No

1 To the Govt Advocate in Mysore

FILE No. 114 of 1905-06.

28 & 3.10.05

Recovery of gold concerned in Criminal Case No. 286 of 1904-05 on the file of the Assistant Commissioner-Magistrate of the Kolar Gold Fields.

1 From the Government Advocate in Mysore, No. 78, dated the 3rd October 1905.
States that the Chief Court has, in Revision Case No. 158 of 1904-05, ordered that the gold in the abovementioned case, which was handed over to the Tank Block Company, should be confiscated to Government, and requests that, as the Company now states that it has been sent home and as there is no provision in the Criminal Procedure Code to adopt measures to recover property once delivered back, the Company may be called upon to deliver the gold up to Government or to pay the value thereof.

(Note Serials 2, 3 and 5 are filed.)

4 To the Deputy Commissioner of Kolar, No. J. 1613—C., dated the 7th December 1905.
Forwards the above letter from the Government Advocate and requests him to inform the Company's local authorities of the opinion of the Government Advocate and to claim from them the value of the gold.

G. R. S. 11] 1905.

GENERAL AND REVENUE SECRETARIAT

(Jails)

NOTES.

File. No 114

FILE HEADING.

Recovery of gold concealed in criminal Case No 286 of 1905 on the file of the Assistant Sessions Magistrate, K.G. Fields.

From

The Government Advocate in Mysore

No. 28 Dated 3/10/05 Received 16/10/05

Diary No. 882	Enclos. one	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that the Chief Court, in Revision Case No. 158 of 1905, ordered that the gold in the above case which was handed over to the Bank Block Company should be confiscated to Govt; & requests that as the Company now states that it has been sent home and as there is no provision in the Cr. Procedure Code to adopt coercive measures to recover property when delivered back, they may be called upon to deliver back the gold or to pay the value thereof.

NOTES AND ORDERS.

Submitted for orders

18/10/05 Put up the Commentaries on the Criminal Procedure Code by Mr. Justice Henderson also look up Woodman's Digest for cases bearing on the point

E. Mowat

NOTES—First sheet.

MGCPB—30,000—17-2-05.

G.R.S. 12]

General and Revenue Secretariat.

File No. 114 of 1905

Serial No. Rev 7-11-05

There are no cases on a suit similar to the present in the Law Reports or in the Commentaries But a decision reported in W. R. 1864, Cr. 5. ~~that is to the effect~~ more that it is open to a complainant to recover property of which he has been forcibly or illegally deprived, in its value by a civil suit. By an extension of the same principle we may say that where property has been awarded to Govt., it is open to the latter to recover it by a suit. The opinion of the Govt. Advocate seems therefore to be right. The records of the case may however be sent for in the first instance.

Sd 18/11/05

Yours truly
5/11/05

Yours truly
7-11-05

Filed

2 To the Registrar of the High Court
No. J 1324/C.114.2 of 13/11/05

Requests him to obtain & forward the records in Civil Case No. 286 of 04-05 of this Court No. 155 of 04-05 on the file of the Court of Sessions, Midnapore, Mr. Fields & the records in Civil Suit Cases Nos. 105 & 158 of 04-05 ~~of the Court No. 158 of~~ on the file of the Chief Court

Filed

3 From the Registrar of the High Court No. 1005 of 23/11/05
156

Forwarded

NOTE—Contn. sheet.

G.R.S. 12]
General and Revenue Secretariat.

C^N File No. 1/14 of 1905-06

Serial No.

Forwards the records called for and requests that they may be returned when done with.

2/ The records show that the gold was ordered by the Asst Magistrate to be handed over to the Tank Block Company on the ground that the accused concerned in the case was working at the time of the commission of the offence as a mill feeder in that Company's service & on the evidence of the declaration officer of the Tank Block & Wandiwong Company who made an assay thereof that the gold was similar in composition to that of the Tank Block & did not compare with that of the Wandiwong Mine. The Chief Ct has set aside this order, as there was no evidence that the accused could not have obtained possession of gold of a mine producing gold similar in composition to that in question & has further ordered that it should be confiscated to Govt. The gold having been dealt home by the Company has now to be recovered from them.

MLS
25/10/05 RMS

The Tank Block Co was a party to the proceedings of the Chief Court in which the Court ordered the confiscation of the gold to Government. The Magistrate of the Gold Fields, with reference apparently to the action taken by the D^t Magr in

NOTE—Contn. sheet.

G.R.S. 12]
General and Revenue Secretariat.

A5 File No. 114 of 1905-06

Serial No.

that order, informed the Dt Magt that the Company had sent the gold or to England. Upon a report of this circumstance the Chief Court informed the ~~Dist Magt~~ Government Advocate that he might take action as he might be advised. We have now the reference & the opinion of the Govt advocate. This opinion does not appear to have been communicated to the Dt Magt or the Company; nor does it appear that the value of the gold was claimed.

8 Subt with draft of letter to the Dt Commr Secy) to the Dewan Saheb through the 1st ~~H.H.05~~ Councillor. 27.11.05

816/27-11-05

1 Under the circumstances the Company receiving the proceeds which ought to have been confiscated to Govt, is liable to be called upon either to give credit for proceeds or to pay to Govt the value thereof.

10 Draft added. 29-11-05

Records to be returned to the Chief Court

30.11.05 11 Draft has been issued. The records received from the Registrar of the Chief Ct. has to be returned. Draft & Docket is sent for approval

9950/30.11.05

12/12/05

12 Passed 12.12.05

10/12/05

NOTE—Contn. sheet.

G.R.S. 12]

General and Revenue Secretariat.

File No. 114 of 1905

Serial No. 4

To the Depty Commr of Kolar No. J 1613 d 31/12/05

Forwards copy of letter No. 28 d 3/1/06 from the Govt Advocate in Mysore requesting him to inform the Company's local authorities of the Govt Advocate's opinion & claim from them the value of the GOD

To the Asst of the Chief Ct of Mysore No. J 1662 d 13/12/05.

Returns the records received with 8 Nos 3.

1 & 4 Decree & File of Suit

2, 3 & 5 Filed

NOTE.—Contn. sheet.

MGCPB—50,000—17-2-05

No 78
En No 1

Office of the Govt Advocate
in Mysore
Bangalore 3rd October 1905

From J. No: 1144/05 / 1882
S. No: 1

The Government Advocate
in Mysore

To

The Secretary to the Govt of
His Highness the Maharajah
of Mysore
Revenue & General Dept.

Sir

In Criminal Case No 286
of 1904-05 on the file of the Assistant
Commissioner & 1st class Magistrate
of Kolar Gold Fields one Sundram
was convicted of being in dishonest
possession of Syringe Gold of the
value of Rs 60 / under Section 411
of the Indian Penal Code and the
Magistrate directed the gold
to be returned to the Juri & Block
Committees the Accused was in

the

III
Rule
16-10-05
Courts

the Company's shipment.

2. The Chief Court set aside the said order and the delivery of gold in Criminal Revision Case No. 105 of 1904-05 and directed under section 420 of the Code of Criminal Procedure, that if the said Company failed to prove their ownership of the gold in two months time, the same may be confiscated to Government.

3. On some slight evidence the Magistrate held, in Misc. Case No. 155 of 1904-05 that the Company was the owner of the gold and delivered the same to the Tank Block Company. In Revision Case No. 158 of 1904-05 the Chief Court again set aside this order and finally directed that the gold

gold should be confiscated to
Government. When the Magistrate
called upon the Company to pro-
duce the gold, he seems to have
been informed that it had been
dispatched to England, and
therefore could not be returned.
When once any property is
delivered to any party by the
Magistrate there is no provision
in the Code of Criminal Procedure
to adopt any coercive measures
to get back the same. In these
circumstances the Chief Court
has passed the order, a copy of
which is herewith submitted.
It appears to me that the
Government may call upon
the Company to give up the
gold or value thereof. In

case

No. 1878-79
85

Proceedings of the Chief Court of Mysore.

Bangalore dated 20th September 1905.

Read letter No-C-95, dated 13th Sept. 1905, received from the District Magis=trate of Kolar forwarding a copy of Docket No. 170, dated 12th August 1905, from the Assistant Commissioner and 1st class magistrate, Kolar Gold Fields, stating that the gold ordered to be con=fiscated in Criminal Revn: case No. 158 of 1904-05 on the file of this court was returned to Tank Block Company and it has been sent home.

The Government Advocate will be informed that he may take action as he may be advised. No other order is necessary.

(Sd). A.V. Rajaratna Modaliar
Registrar.

"True Copy"

S. Narayana Rao
Government Advocate

Draft

G.R.S. 261

05 6

File No. 114

Serial No. 4

Diary No. of letter replied to

No. J 1613 En 1

07.12.05

General and Revenue Secretariat

( )

, *the* 190 .

To

The Deputy Commissioner

Kolar District

Date of issue 7.12.05

Signed by Wm. B. Ramaswamy Ayengar

Sir,

With reference to your letter No C.95 dated the 13th September 1905 to the Registrar of the Chief Court of Mysore reporting to the Court that a certain piece of gold ordered by the Court to be confiscated to Government was removed by the Magistrate of the Gold Fields to the Tank Block Company and transmitted by the latter to England, I am directed to forward for your information a copy of letter No 78 dated the 3rd October 1905 from the Govt. Advocate in Mysore and to request you to be so good as to inform the Company's local authorities

over.

Send 9/12/05 29/11/05

1007 Wrote. 2.XII.05

Issue 5.12.1905 R.S. 1905

SUBJECT.

of the opinion of the Govt Advocate and claim from them the value of the gold, which is stated to be Rs. 60/-

I have &c

5.12.1905

Secretary -

26.11.05

List of enclosures.

Copied by 5/12/05.

Examined by

MGCPB—5,000—20-5-04